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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOCKETED BY

ROBERT "BOB" BURNS, Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON

DOCKET NO: E-01345A- 19-0003

IN THE MATTER OF THE RATE REVIEW AND
EXAMINATION OF THE BOOKS AND RECORDS
OF ARIZONA PUBLIC SERVICE COMPANY AND
ITS AFFILIATES, SUBSIDIARIES AND PINNACLE
WEST CAPITAL CORPORATION

STACEY CHAMPION'S RESPONSE TO
ARIZONA PUBLIC SERVICE COMPANY'S
OPPOSITION TO STACEY CHAMPION'S
REQUEST TO INTERVENE

Stacey Champion files this response to APS opposition to Stacey Champion's Request to Intervene. APS asserts Ms. Champion's "alleged interest in the matter does not rise to the level required by Commission regulations." On the contrary. Ms. Champion's request for Intervenor status in this Docket not only rises to the level required by this Commission, but also ties directly to the sole purpose and laws surrounding the legal creation of this Commission in the first place.

Many of Ms. Champion's legal rights to due process and fairness, as well as issues surrounding transparency, public trust and best interest, and core mission of this Commission are eloquently highlighted in Chairman Bob Burns Docket. No. RU00000A-170035, "Development of New Transparency and Disclosure Rules related to Financial Expenditures by Regulated Monopolies, Interveners and other Stakeholders."

The Executive Summary of this document states: "Longstanding legal standards and the political and economic policy sentiments embedded in Arizona's Constitution support robust transparency and disclosure ("T&D") measures to ensure properly informed decision-making by regulators, consumers, interveners, competitors,

1 stakeholders, and even regulated corporate executives, boards, shareholders and investors. T&D rules that allow for
2 comprehensive and proactive examination by all regulatory and nonregulatory interested parties of formal or
3 informal practices by regulated monopolies that might lead to undue positive or negative influence on regulators or
4 regulatory staff are particularly critical to ensuring a fair, trustworthy, efficient, and objective regulatory
5 environment and sound regulatory decision-making.”

6
7 It goes on to state: “The Arizona framers also intended that the ACC Commissioners be a uniquely
8 protective form of governmental machinery assigned Powers "primarily for the interest of the consumer." Id. at 308,
9 138 p. at 786. One of our Supreme Court's earliest pronouncements on the structure and intent of the ACC held: 3 It
10 is to be remembered that the framers, and the people who adopted it, designed that our Constitution abandon the
11 beaten path of precedents in Constitution making, and handle modern problems and conditions by advanced and up-
12 to-date methods and formulas. The supervision and control of public utilities has ever been, and probably always
13 will be, one of the most vexatious as well as vital questions of government. All persons agree that the capital
14 invested in public service should receive reasonable remuneration, and that the services rendered should be efficient
15 and practicable and to all patrons upon equal terms and conditions. With a full knowledge that these things had not
16 been accomplished under the laws heretofore existing in this and other jurisdictions, the people in their fundamental
17 law created the Corporation Commission, and clothed it with full power to investigate, hear and determine disputes
18 and controversies between public utility companies and the general public. This was done primarily for the interest
19 of the consumer. If he is dissatisfied with the rates and charges exacted of him by his public service corporation, he
20 may file his complaint with the commission and secure an investigation and determination of the wrong charged.
21 With trained, capable and conscientious commissioners, it is fair to assume that he will be granted a speedy hearing
22 and a reasonable adjustment of his complaint.”
23 id. at 307-308, 138 p. at 786.

24
25 Not allowing Ms. Champion the right to Intervene in this Docket would not only be a gross slap in
26 the face of Ms. Champion's Constitutional rights as highlighted above, but would also be a blatant example of the
27 fox guarding the henhouse with no public transparency or ability to examine items relating to this Docket.

1 Indeed, Chairman Burn's Executive Summary goes on to say: "The latter reference to "trained,
2 capable and conscientious" commissioners acting in a fair and reasonable manner exposes the parallel constitutional
3 objectives that ACC commissioners be unbiased, objective, and accountable to the voters who elect them and the
4 consumers they primarily serve. The Arizona Supreme Court recognized very early on in the same opinion the
5 wisdom of the framers in creating the ACC as a truly independent and fair department basing its decisions on
6 publicly disclosed facts, not behind-the-scenes influence. The court in Tucson Gas, E/ec. Light & Power Co., 15
7 Ariz. at 305-306, 138 P. 785-786 specifically noted that the wisdom of an independent fourth branch to perform
8 utility regulatory functions was demonstrated in the laments of federal precedent from Iowa which contrasted that
9 state's lack of a corporation commission with the situation in states like New York, Massachusetts and Wisconsin
10 which "'have state commission of competent men, who give public hearings, and who do nothing behind doors, nor
11 in secrecy - - a commission with no member interested as a taxpayer of the city and with no member subject to
12 influences other than the ascertaining of the truth and the facts.'" (quoting Des Moines Water Co. v. City of Des
13 Moines (C.C.), 192 Fed. 193, 195 (emphasis added)). Further explicating the efficiency of Arizona's utility
14 regulation structure, the Arizona Supreme Court adopted a federal court's observation that much litigation and
15 expense is avoided by a state that has "'an impartial and nonresident commission or tribunal, with power to fix ...
16 rates at a public hearing, and all interested parties present, with the tribunal selecting its own engineers, auditors, and
17 accountants.'" Tucson Gas, Elec. Light & Power Co., 15 Ariz. at 305-306, 138 p. 785-786 (quoting Des Moines Gas
18 Co. v. City of Des Moines (D.C.), 199 Fed. 204, 205). Thus, the Supreme Court members closest in time to the
19 constitutional birth of the ACC acknowledged the framers' expectation that the Commissioners be competent, act
20 publicly, have no personal interest in the matters being decided before them, and be subject to no influences "other
21 than the ascertaining of the truth and the facts."

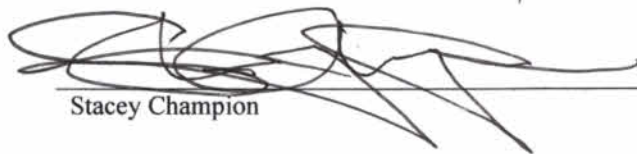
22
23 It is also important to note, that in other matters at this Commission, deadlines for interested and
24 affected ratepayers to intervene have even been **extended** to increase both public participation and transparency. See
25 "AZ Corporation Commissioners Extend Johnson Utilities Hearing, Intervenor Deadlines" attached. APS states that
26 Ms. Champion's "alleged interest in the matter does not rise to the level required by Commission regulations. This
27 statement could not be further from the truth, nor the intent of A.A.C. R14-3-105A. In fact, the factors to consider
28 are "(1) whether the application to intervene is timely; it is (2) whether Ms. Champion's interest and the underlying

1 action share a common question of law or fact; **they do**, and (3) whether the intervention will unduly delay or
2 prejudice adjudication of rights of the original parties, and **it will not**.

3
4 Also, Ms. Champion has demonstrated above that Federal Rules of Civil Procedure, Title IV, Rule
5 24 absolutely give her the right to be an Intervenor in this matter, whether this matter is exclusively a "rate review"
6 or not. Ms. Champion filed a complaint with this Commission in January of 2018 (Docket No. 01345A- 18-0002)
7 directly relating to the justness and justification of these rates in question, and whether or not it includes "any
8 contemplated action by the Commission" or not, has no relevance to Ms. Champion's desire to intervene in this
9 matter. Ms. Champion, as an APS customer, as the person who represented the concerns of thousands of additional
10 APS customers, as the person who obtained both an attorney and an expert for her own Complaint, and who believes
11 the lack of transparency and public trust with the Arizona Corporation Commission, especially with respect to the
12 utility monopoly that is APS, feels a very **direct interest** to this matter. Ms. Champion is interested in seeing how
13 the sausage is made, not blindly eating the sausage after the fact and getting food poisoning.

14
15 Therefore, Ms. Champion asks this Commission, in the spirit of its creation, be given Intervenor
16 status, along with any other interested parties who are also directly impacted and/or are interested in serving the
17 public's best interest above shareholders and corporate interests.

18
19 Respectfully submitted this 8th day of February, 2019 by:

20
21 
22 Stacey Champion

1 Service List for Docket No. E-01345A-19-0003:

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8
9 Copies of the foregoing mailed/delivered/mailed this 8th day of February, 2019 to persons identified on this service
10 list.

11
12 Name of sender: Stacey Champion

13
14 Signature of sender:

A handwritten signature in black ink, appearing to be "Stacey Champion", written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

AZ Corporation Commissioners Extend Johnson Utilities Hearing, Intervenor Deadlines



Arizona Corporation Commissioners met on Thursday to discuss the Commission's investigation of the billing and water quality issues of Johnson Utilities, LLC. Johnson Utilities customers provided public comment during the meeting regarding several topics including billing issues, water quality, and the process to intervene in Corporation Commission proceedings.

Commissioners determined more time was needed to provide interested parties the opportunity to participate in the hearing as intervenors. Corporation Commission staff proposed a revised schedule which extends the deadline for Johnson Utilities rate payers interested in intervening in the hearing to April 16, 2018.

Did you know?

All documents related to the investigation into the billing and water quality issues of Johnson Utilities, LLC, may be found in the Commission's online docket at <http://edocket.azcc.gov> by searching for docket number WS-02987A-18-0050.

Commissioners voted unanimously to approve the new schedule which calls for the hearing to reconvene on April 16, 2018, at 10 a.m.

Customers who have service, quality, and/or billing issues may request intervention, which would give them the right to provide testimony during the April 16 hearing. Information on how to intervene in a utility case can be found on the ACC website <http://azcc.gov/intervene>.